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SUBJECT: DOMINICAN REPUBLIC: PART 2, SEVENTH ANNUAL
TRAFFICKING IN PERSONS REPORT

REF: STATE 202745

¶1. The following is Part 2 of Embassy's response to the
Trafficking in Persons (TIP) questions raised in reftel.

¶2. 2006 Trafficking in Persons Report for the Dominican
Republic, Part 2

III. INVESTIGATION AND PROSECUTION OF TRAFFICKERS

The Dominican government made significant progress in the
investigation and prosecution of cases involving trafficking.

-- The Legal Basis

Any of several laws may be applied to prosecute traffickers,
depending on the elements of the crime and the identity of
the victims. Taken together, these laws are adequate to
address the full scope of trafficking in persons, and they
cover both domestic and international forms of trafficking.
In 2003, the Dominican Congress passed a comprehensive
Trafficking Law (Law 137-03), promulgated subsequently by the
President. However, many of that law's implementing
regulations have yet to be finalized. The definition of
trafficking is based largely on the Protocol to Prevent,
Suppress and Punish Trafficking in Persons, especially Women
and Children, supplementing the Convention against
Transnational Organized Crime. It covers trafficking for
sexual exploitation as well as for non-sexual purposes,
including for forced labor. A law against alien smuggling
was already in force, but the Trafficking Law carries
stricter penalties. In addition, the Code for Minors (Law
136-03), which came into effect in 2004, has penalties
specifically for the sexual exploitation of children.

The Code for Minors establishes penalties for sexual abuse of
children of 20 to 30 years' imprisonment and fines from 100
to 150 times the minimum wage. The Code for Minors provides
for a penalty of between 2 and 5 years' incarceration and a
fine of 3 to 5 times the minimum wage for persons found
guilty of abuse of a minor. The penalty is doubled if the
abuse is related to trafficking. The Trafficking Law also
covers sexual exploitation, but the Code for Minors
established more severe penalties for this crime.

The Trafficking Law provides penalties of 15 to 20 years'
imprisonment and a fine of 175 times the minimum wage for

traffickers, including traffickers of persons for labor exploitation. The law includes provisions against alien smuggling, establishing a 10- to 15-year prison sentence and a fine of 150 to 250 times the minimum wage. Penalties of 10, 15, and 20 years imprisonment were administered in convictions obtained during the year.

The Law Against Domestic Violence (Law 24-97) includes penalties for rape, incest, sexual aggression, and other forms of domestic violence that range from one to 30 years in prison and fines ranging from 5,000 to 500,000 pesos (approximately US\$150 to US\$15,000). The penalties for committing rape are 10 to 15 years in prison (or 10 to 20 years in case of rape against a vulnerable person or under other egregious circumstances) and a fine of from 100,000 to 200,000 pesos (approximately US\$3,000 to US\$6,000).

The law does not prohibit prostitution, although it is illegal for a third party to derive financial gain from prostitution. The operation of brothels is illegal. The Government usually did not enforce prostitution laws, but there were several crackdowns when minors were discovered to be involved in prostitution.

-- The Actors

The National Police, the Migration Directorate, the Navy, the Office of the Attorney General and local District Attorneys share responsibility for investigating trafficking and alien smuggling cases and pursuing charges against offenders.

In practice, it is the Office of the Attorney General that investigates and prosecutes most cases of this type. That

office's Department of Alien Smuggling and Trafficking in Persons has its own dedicated police contingent to investigate cases, and the Department has the authority to prosecute suspects throughout the country. Their exemplary performance was perhaps the brightest spot in the country's trafficking record this year.

The government has designated a prosecutor in every judicial district as a special prosecutor for TIP cases.

The National Police has a dedicated unit to investigate cases involving alien smuggling and trafficking, but in practice the police do very little. Their operations are hindered by frequent personnel rotations and a lack of funding -- for example, they have only one motorcycle and no vehicles assigned to their unit. The current management of their trafficking section does not appear to appreciate the difference between trafficking and alien smuggling. Virtually all of their equipment is donated from foreign sources.

The Migration Directorate has its own dedicated anti-trafficking unit, to which a special prosecutor is assigned. However, in practice this unit also does very little. They conduct no proactive investigations. Their involvement in anti-trafficking efforts is limited to those cases in which they directly receive official complaints ("denuncias"), but they do not investigate cases in which other offices, such as local police stations, receive denuncias. The Directorate received only one denuncia during the year; in other words, they investigated only one case.

Special prosecutors detailed to the Navy's intelligence unit (M-2) handle cases of alien smuggling by sea routes. These prosecutors routinely investigate possible trafficking links when they interrogate illegal migrants. As of March 2006, the authorities had successfully prosecuted 5 captains and organizers of illegal migrant voyages. All 5 received sentences of 10 years for their roles in three separate cases of illegal migrant smuggling. The Dominican Navy magistrate office, responsible for these prosecutions, has numerous migrant cases still awaiting trial.

Although resources are limited, the authorities use active investigative techniques when possible, including the monitoring of Internet pornography sites. The police are not prohibited from engaging in covert operations.

-- This Year's Cases

As of February, the Office of the Attorney General had submitted approximately 120 cases for prosecution under Trafficking Law 137-03. During the year, they successfully obtained convictions in 11 of these cases. Some of these are mentioned below.

In May 2006, a judge convicted and sentenced to 15 years' imprisonment Wilson Charles on charges of trafficking in persons and child sexual exploitation under Trafficking Law 137-03.

In July 2006, a judge convicted and sentenced to ten years' imprisonment Rafael Armando Nivar Diez under Trafficking Law 137-03.

In January 2006, 25 Haitian citizens died from asphyxiation in the back of a truck while being smuggled from Haiti to Santiago. An investigation by the Office of the Attorney General resulted in criminal indictments against 10 civilians and seven military officials accused of accepting bribes in exchange for looking the other way. In January 2007, Elvis Rodriguez Ortiz and Esteban Martinez Rosario, the driver and his assistant, respectively, were sentenced to 20 years' imprisonment under Trafficking Law 137-03. Former military enlistees Santos Pena Reyes and Stalin Martinez Rosario were sentenced to 10 years' imprisonment under the same law for accepting money in exchange for facilitating the truck's passage.

The Office of the Attorney General investigated and is actively pursuing charges in a number of other cases, some of which involve public officials. A few of the most

significant of these are mentioned below.

On November 10, authorities rescued six trafficked Venezuelans in the "Hotel Kay" in Santo Domingo. The victims alleged that they had been contracted under false pretenses, but upon arrival were confined in the hotel and forced to prostitute themselves. Authorities arrested and confined in preventive custody two individuals in connection with the case.

In August authorities dismissed police Major Rafael Elpidio Fernandez Garcia from his position and placed him and his wife in preventive detention on trafficking charges. The suspects were accused of operating a network trafficking individuals to Spain.

At year's end 29 public officials, including a city mayor and an assistant director of immigration, were in prison on charges of conspiring to falsify official travel documents in order to smuggle large numbers of persons (mostly women) to several European countries. Authorities charged the officials, from a variety of government agencies, of involvement in a trafficking network that accumulated nearly \$1.5 million (45 million pesos) over six months. The first arrests had been made in September 2005, but as further investigations revealed more extensive involvement, arrests continued to be made throughout 2006.

Authorities arrested five suspects on trafficking charges related to a case in July involving 11 women promised work in Spain but defrauded of their possessions and left abandoned in Italy, Turkey, and Peru. The suspects remained in preventive detention in Najayo Prison and awaited trial as of February.

In other cases, particularly in those involving politically well-connected suspects, authorities have been reluctant to prosecute offenders. In June the Attorney General suspended from her duties and later fired Maria Asuncion Santos, district attorney for San Cristobal. The dismissal took place after one of her subordinates was accused of involvement in a trafficking scheme that lured citizens with false offers of employment in Spain. There were allegations that Santo was involved, but to date no charges against her have been filed.

Also in June, Colonel Juan Reyes Santana of the La Caleta firefighters was arrested on suspicion of involvement in alien smuggling. According to witness testimony, Reyes Santana collected \$3,000 (90,000 pesos) each from eight individuals in exchange for fraudulently securing them visas to travel under the auspices of a firefighter training program. Although authorities dismissed Reyes Santana from his position, they declined to pursue criminal charges against him.

Since 2004, the Venezuelan Embassy has received multiple complaints from trafficked Venezuelans victimized by a Dominican-Venezuelan company named "Literatura Universal." The Embassy repeatedly communicated its concerns over the case to the Dominican Foreign Ministry and others, but as of year's end had not received a satisfactory response. The company remained in operation and reportedly continued to traffic Venezuelans into conditions of forced labor.

A series of delays and postponements plagued an early 2005 case against a group of Colombian and Dominican traffickers, one of whom was a former leader of the Dominican Communist Party. The accused had reportedly been previously employed by "Literatura Universal," the sme company mentioned in the case above. After a sries of delays, the accused were found guilty inFebruary of operating a criminal network that trfficked young Colombian girls into the country to ork as prostitutes. The accused were allowed to o free pending sentencing hearings, which were reeatedly postponed due to the failure of the accued to appear in court. The convicted traffickersremained free at year's end.

-- The Traffickers

According to COIN and IOM, trafficking organizations are typically small groups. Smuggling rings in the Dominican

Republic are loosely organized. Usually there is a contact at the destination who works with recruiters in the Dominican Republic to locate the victims and provide them with travel documents. There were no reports of trafficking profits being channeled to armed groups, terrorist organizations, judges, banks, or the like. However, there were reports of linkages between rings involved in trafficking in persons, human smuggling, and drug trafficking. There were reports that some travel agencies fronted for traffickers.

There were reports of governmental involvement in trafficking. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country. There were also elements within the Migration Directorate and the National Police that organized or facilitated the smuggling of aliens through the international airports.

There were rumors from within the NGO community that other, more senior officials were involved in trafficking activities as well. Those senior officials remain in their jobs and have not been investigated.

Several of the specific cases mentioned above involved governmental officials, including some high-level ones. Under the leadership of Frank Soto, the Department of Alien Smuggling and Trafficking in Persons of the Office of the

Attorney General has actively pursued criminal charges against a number of officials who were allegedly involved in trafficking. This is a significant improvement over past years.

It should be noted that at the time that this report was written, Dr. Frank Soto had been suspended from his job for nearly two months. The suspension was related to the shooting death of a corrupt regional prosecutor, which occurred during a nighttime exchange of gunfire between the prosecutor and police officials attempting to apprehend him. Dr. Soto was leading the operation and was present at the scene. The Justice Ministry investigation found that the regional prosecutor had opened fire and had wounded a policeman, provoking return fire from arresting officials.

There were rumors in the NGO community that an internal government report had cleared Dr. Soto of wrongdoing, but that he remained suspended because some officials felt threatened by his investigations.

-- International Cooperation

The government has signed a cooperative agreement with the government of Colombia to share information on cases of trafficking. The Presiding Justice of the Supreme Court has signed an agreement with his Latin American and Iberian counterparts for the Network of Ibero-American Judicial Cooperation (IberRed) to conduct studies and collaborate on trafficking projects. The government is not currently engaged in any international trafficking investigations. The Attorney General's office has worked in the past with Argentina and Colombia.

Over the past several years the Venezuelan Embassy has complained repeatedly, at the highest levels, that a Dominican company called "Literatura Universal" is trafficking Venezuelan citizens into conditions of forced labor. The company promises lucrative employment outside of Venezuela, but upon arrival in the Dominican Republic retains victims' identity documentation and confines and exploits them. As of the writing of this report Dominican authorities had taken no action against the company.

There are no known cases where the government has requested the extradition of persons charged in other countries with trafficking, nor has the government received any requests to extradite any of its citizens to another nation on charges of trafficking. Extradition between the United States and the Dominican Republic is governed by the June 9, 1909 Extradition Treaty. The government has responded positively to United States extradition requests on other grounds.

The laws on child sexual abuse laws do not provide

extraterritorial coverage. Dominicans are not known to travel overseas to engage in child sex tourism.

The Government has taken action on the following international instruments:

- ILO Convention 182 (ratified November 15, 2000)
- ILO Convention 29 (ratified December 5, 1956)
- ILO Convention 105 (ratified June 23, 1958)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons (ratified November 7, 2006)
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography (submitted to the Senate for ratification on February 8, 2005)

IV. PROTECTION AND ASSISTANCE TO VICTIMS

Dominican authorities did little to support or expand programs providing protection and assistance to victims of

trafficking.

-- The Law

Under the Trafficking Law, victims of trafficking are guaranteed adequate housing, medical attention, and access to education, training, and employment opportunities. The law requires that victims receive legal assistance as well as psychological and other evaluations. In practice, however, such assistance is not widely available.

Victims can file civil suits against traffickers, but there is little incentive to do so and victims may be unwilling to face the social stigma. In addition, many illegal migrants are reluctant to file charges against smugglers because the victims are considering attempting illegal migration again in the future. Another problem is the cultural regard that Dominicans have for traffickers and alien smugglers. Given the important role that emigration plays for many Dominicans, these criminals are regarded by some as heroes.

-- Assistance to Victims

The Dominican government invests virtually none of its own resources in efforts to assist or rehabilitate victims of trafficking. Most programs of this nature are maintained and financed by private sources, such as NGOs and other international organizations.

CONANI currently runs seven shelters that house children at risk or children who are victims of violence and sexual abuse. Children and adolescents who have been rescued from sexual exploitation, including some victims of trafficking, are sometimes housed in these shelters. Local NGO COIN operates an office in Bani where women returned from trafficking situations abroad can receive low-cost or free health services, psychological counseling, judicial assistance, and job training. COIN also operates a reception center for returned women, offers counseling for potential victims, and conducts limited public service campaigns. COIN provides tests for HIV/AIDS and other sexually transmitted diseases. COIN receives no assistance from the Dominican government, but the government does refer victims to its offices.

The Armed Forces sponsored a program to rescue children from abuse, known as the General Directorate of Shelters and Residences for the Civic Reeducation of Boys, Girls, and Adolescents (DIGFARCIN). DIGFARCIN provided educational programs, after-school projects, and recreation opportunities to children at risk of abuse, mainly in the Boca Chica area. DIGFARCIN also operated a home for abused children in San Jose de las Matas.

The Hermanas Adoratrices, a religious organization, operates two refuges that receive and rehabilitate prostitutes and provide them with health care, childcare, and vocational skills. Those refuges are located in Santo Domingo and La Romana. The organization receives no assistance from the

Dominican government.

There is no formal screening system in place to transfer victims detained, arrested, or placed in protective custody by law enforcement authorities into the care of NGOs. Victims are generally referred to NGOs such as COIN and IOM if authorities recognize that they are victims of trafficking. These efforts are largely led by the Secretariat of Women.

The government generally respects the rights of trafficking victims and does not detain or jail them unless there is evidence that they have committed a crime, such as drug smuggling. Authorities often arrest prostitutes in raids,

some of whom are probably victims of trafficking, but in general the authorities do not make an effort to investigate whether the women are victims of trafficking except when there is evidence of child prostitution.

The government does not provide protection for victims and witnesses as a matter of course, although the government has at times provided protection to victims when an active threat is perceived.

There were no shelters, private or public, anywhere in the country to provide temporary housing to victims of trafficking. Shelters for victims of violence were not generally accessible by victims of trafficking. COIN reports that the lack of shelters forces them to return victims of trafficking directly to their home villages, which is generally accomplished without difficulties. However, reintegration problems sometimes occur, and the lack of shelters also made it difficult for foreign victims to return to the Dominican Republic to testify against traffickers.

The government added a number of new programs to assist victims of violence and sexual assault, but NGOs reported that these resources were not available to victims of trafficking. New resources for victims of violence and sexual assault included the following:

The National Directorate for Assistance to Victims, created by the Office of the Attorney General in 2005, coordinates efforts of official and nongovernmental institutions that offer services to victims of violence. It has three offices in Santo Domingo and another four at locations around the country. These offices not only accept criminal complaints from victims of violence throughout the country but also provided counseling and protection services and, when necessary, referrals to medical or psychological specialists. However, NGOs reported that their services were not made available to victims of trafficking.

In the National District, which includes a large section of Santo Domingo with approximately 10 percent of the country's population, the public prosecutor's office created 13 satellite offices around the city where victims of violence could file criminal complaints, obtain free legal counsel and receive psychological and medical attention. Police were instructed to forward all domestic violence and sexual assault cases to these offices. Each office had professional psychologists on staff to counsel victims of violence and to assess the threat of impending danger associated with a complaint. However, NGOs reported that their services were not made available to victims of trafficking.

The government provides training for diplomatic personnel on recognizing trafficking and assisting victims. The administration has established this anti-trafficking training as a permanent part of the required curriculum at the Diplomatic and Consular school. Dominican officials overseas are instructed to work with host governments to identify and assist Dominican victims, to collect information on trafficking patterns, and to identify traffickers. Information obtained in these efforts is channeled through the Secretariat of Foreign Affairs to the other agencies that fight trafficking. COIN publishes pocket-sized books with addresses of Dominican consulates overseas and distributes them to women at risk. However, COIN is aware of only one case, occurring in Puerto Rico, where a Dominican overseas consulate successfully identified a victim of trafficking.

International organizations and NGOs that work with trafficking victims all receive good cooperation from local authorities. These include:

- Center for Integral Orientation and Investigation (COIN)
- Las Hermanas Adoratrices
- International Organization for Migration (IOM)
- The International Labor Organization (ILO)

13. Embassy human rights officer Alexander T. Bryan is the point of contact on trafficking issues. He may be reached by telephone at (809) 731-4203 and by fax at (809) 686-4038.
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